

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

Tammy Barker, Timothy Robert Barker, and)	
Melisa Merryman, on behalf of themselves)	
and on behalf of those similarly situated,)	
)	
Plaintiffs,)	Case No. 08 C 50015
)	
v.)	Judge Kapala
)	Magistrate Judge Mahoney
Local 150, International Union of)	
Operating Engineers, AFL-CIO,)	Trial by Jury Demanded
)	
Defendant.)	

AFFIDAVIT OF THOMAS MERRYMAN

THOMAS MERRYMAN, being duly sworn, deposes and states under oath as follows:

1. My name is Thomas Merryman. I am of legal age. I have personal knowledge of the facts contained in this affidavit and if called as a witness, I am competent to testify thereto.
2. This affidavit is offered in connection with Plaintiffs' Motion for Preliminary Injunctive Relief and supporting memorandum in the above captioned case. This affidavit does not contain all of the facts that I know or believe about such case, but is directed to those facts which may be pertinent to the aforementioned motions.
3. On or about October 10, 2006, Joseph Ward, who I knew to be the Treasurer of Local 150, International Union of Operating Engineers, AFL-CIO ("Local 150"), delivered to me with two (2) CDs.
4. The first of the Subject CDs (hereinafter, "CD1") is labeled "Vehicle Services / Secretary of State / Passenger / Fall Listing 04-05 / ISSUED OCT 04."

5. The second of the Subject CDs (hereinafter, "CD2") is labeled "Vehicle Services / Secretary of State / Calendar & Fiscal / Fall Listing 04-05 / ISSUED OCT 04."

6. Exhibit 1 to this Affidavit appears to be a true and correct photo reproduction of the CDs that Joseph Ward delivered to me.

7. Joseph Ward told me that Local 150 obtained both CDs from the Illinois Secretary of State in October 2004 and similar CDs thereafter.

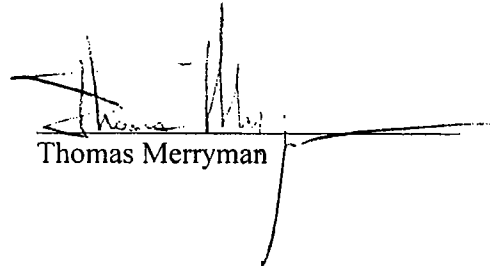
8. At no time did I ever use the CDs, or install the CDs on any computer.

9. Since the time I received CD1 & CD2, I did not review the contents of either CD.

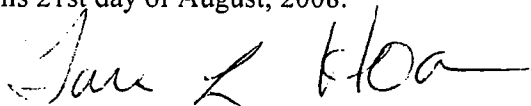
10. I have no personal knowledge as to the content of the material or data contained on CD1 or CD2.

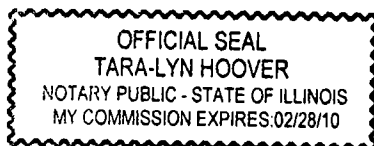
FURTHER AFFIANT SAYETH NAUGHT.

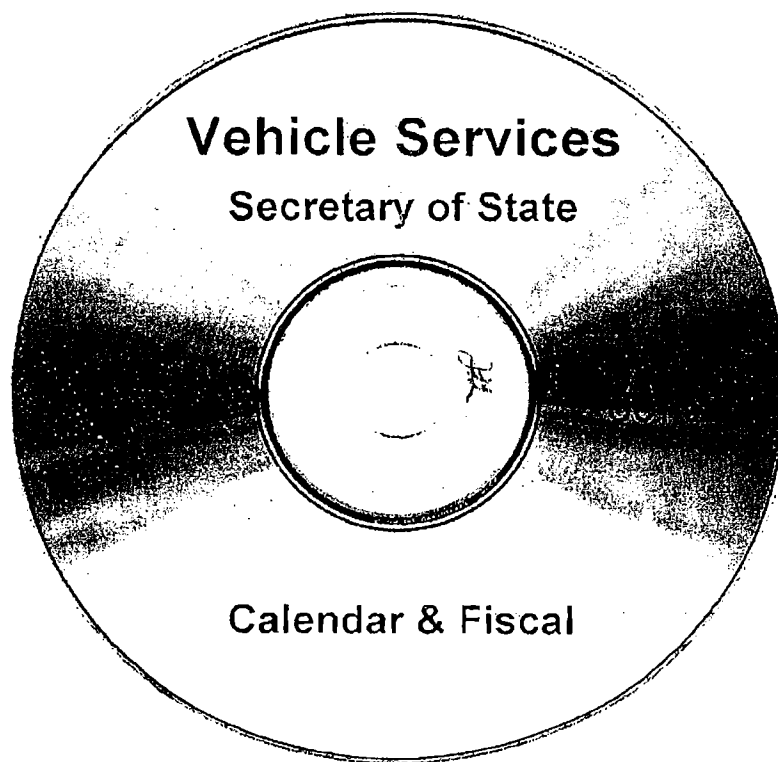
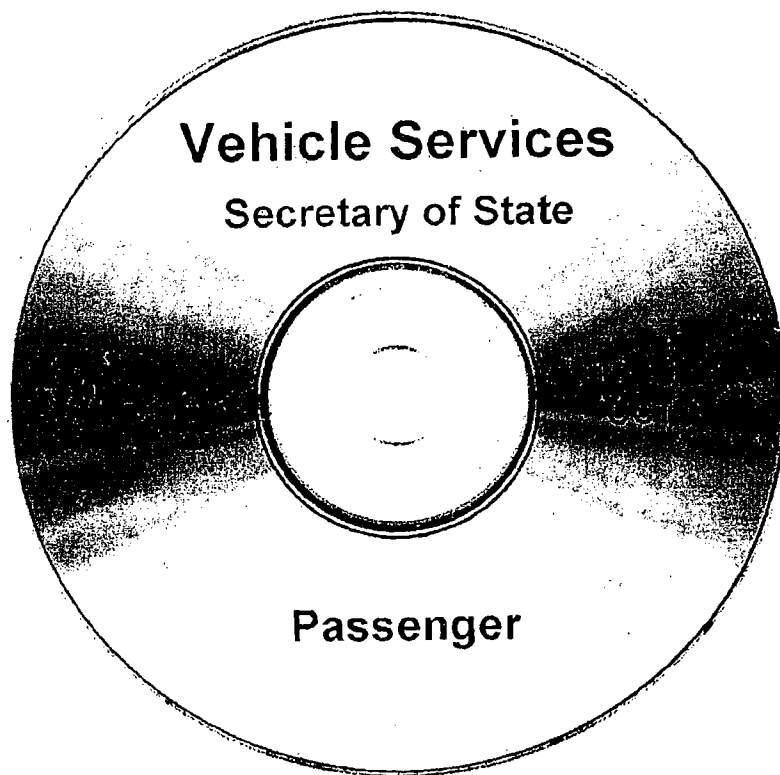
Dated: August 21, 2008


Thomas Merryman

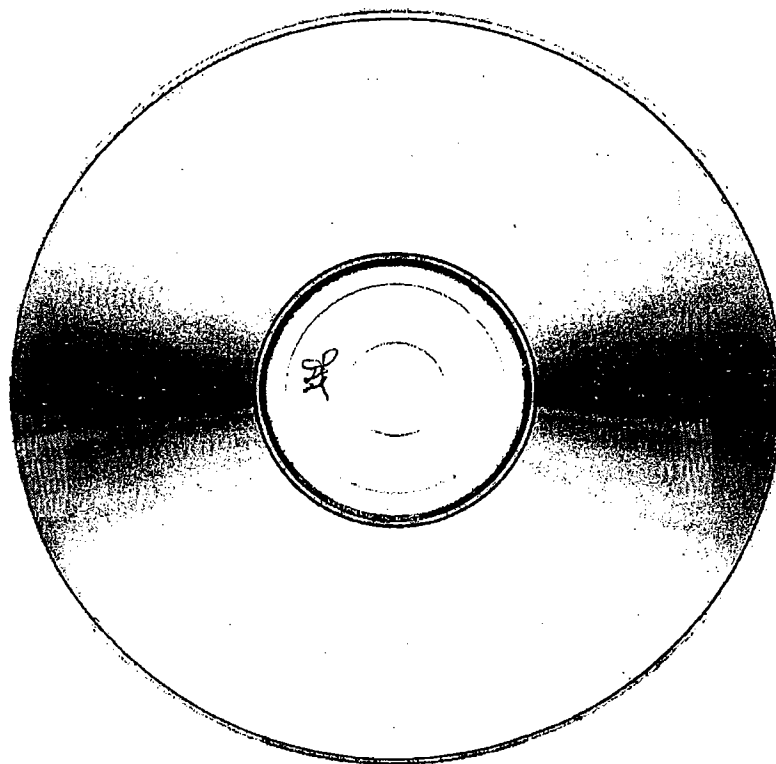
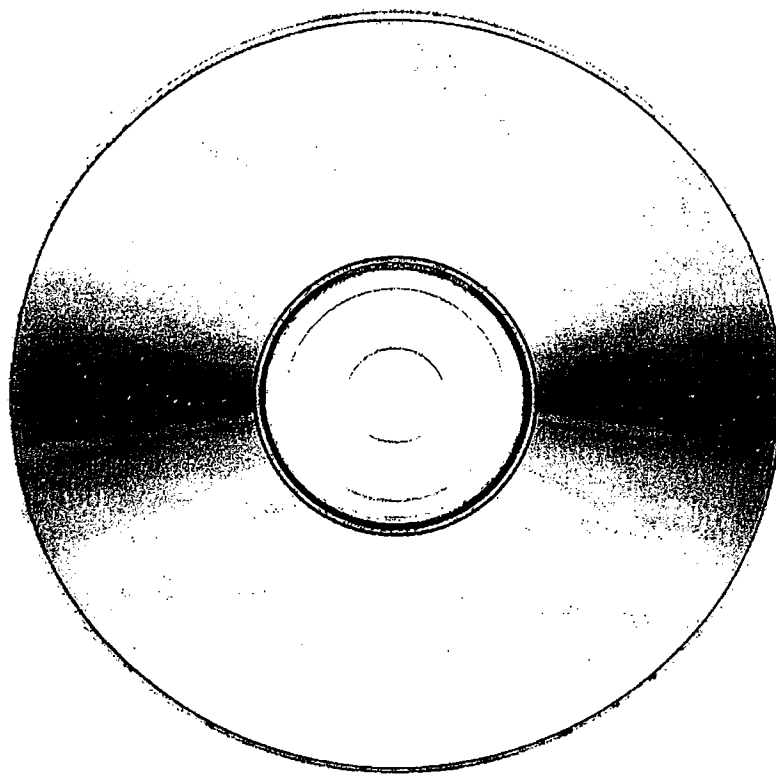
Subscribed and sworn to before me
this 21st day of August, 2008.







[Handwritten signature]



151